

**PT 01-18**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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**ZION UNITED CHURCH OF CHRIST  
OF MARION**

**Applicant**

**v.**

**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

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**A.H. DOCKET# 99-PT-0053  
DOCKET # 98-100-6  
PIN # 06-24-203-006 pt. of**

**RECOMMENDATION FOR DISPOSITION**

Appearances: Mr. Bernard Paul, attorney at law, appeared on behalf of Zion United Church of Christ of Marion.

Synopsis:

The hearing in this matter was held on August 21, 2000, at 2309 West Main Street, Marion, Illinois, to determine whether or not part of Williamson County Parcel Index No. 06-24-203-006 qualified for exemption from real estate taxation for all or part of the 1998- assessment year.

Dr. Mark Whitehead, a member of the church council of the Zion United Church of Christ of Marion (hereinafter referred to as the "Applicant") and Mr. Gene Ruehmkorff, also a member of the church council of the applicant were present and testified on behalf of the applicant.

The applicant, whose church sanctuary building is located at 930 West Cherry Street in Marion, Illinois, acquired part of the parcel here in issue, which was improved with a residence and located across the street from the church at 927 West Cherry Street. The applicant acquired the portion of this parcel for the purpose of constructing a parking lot for the church.

The issues in this matter include: first, whether the applicant is a religious organization; secondly, whether the applicant owned the portion of the parcel in issue during all or part of the 1998-assessment year; and finally, whether the applicant either used the portion of this parcel for religious or exempt purposes, or was in the process of adapting said portion of this parcel for religious or exempt use during all or part of the 1998-assessment year.

Following the submission of all of the evidence and a review of the record, it is determined that the applicant is a religious organization. It is further determined that the applicant owned and used the portion of the parcel here in issue from and after February 4, 1998. Finally, it is determined that the applicant was adapting the portion of the parcel in issue for exempt purposes during the period February 4, 1998, through December 31, 1998.

It is therefore recommended that part of Williamson County Parcel Index No. 06-24-203-006 be exempt from real estate taxation for 91% of the 1998 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that the portion of this parcel in issue did not qualify for exemption for the 1998-assessment year, was established by the admission in evidence of Department's Exhibit Nos. 1 through 6A.

2. During all of 1998, the applicant held religious services at its sanctuary building located at 930 West Cherry Street, Marion, Illinois. Those services took place every Sunday morning at 9:30 A.M. and 10:40 A.M. (Tr. p. 21)

3. There are approximately 500 members of the applicant with average weekly attendance at the religious services of approximately 190. (Tr. p. 20, Appl. Ex. No. 22)

4. The applicant acquired the portion of the parcel here in issue and the house thereon

by a warranty deed dated January 31, 1998, which was recorded on February 4, 1998. (Dept. Ex. Nos. 2 & 2C)

5. Payment for the portion of this parcel was made by the applicant on November 3, 1997. The portion of this parcel was acquired by the applicant from an estate. On November 3, 1997, the personal property of the decedent was still in the house. The applicant received the keys and became responsible for the maintenance of the house on November 3, 1997, but allowed the estate to continue to store the decedent's possessions in the house until a sale of those possessions could be held. The auction of the decedent's possessions was held at the house about February 4, 1998. (Tr. pp. 31-33 & 36-38)

6. After the personal property of the decedent had been disposed of, the applicant proceeded to try and find a charitable, religious, or civic organization which would remove the house from the portion of this parcel at issue. During this period of time the applicant even negotiated with Habitat for Humanity to remove the house and use it elsewhere. As of the end of September 1998 the applicant had been unable to find anyone to remove the house and consequently the house was still on the portion of this parcel. (Tr. pp. 33-35)

7. During December 1997 Lunsford Baysinger Architects, Inc. was hired by the applicant to design a parking lot for the portion of the parcel here in issue. During the period January through March 1998 a parking lot plan for the portion of the parcel in issue was developed by the architects. During the period April 1998 through June 1998 construction documents were developed. During July and August 1998 the architects received bids for the demolition of the house and the construction of a parking lot on the portion of the parcel here in issue. (Appl. Ex. No. 11)

8. By September 1998 no one had been found who was interested in removing the house. Consequently, during October the applicant proceeded to have the house razed and to construct the parking lot on the portion of the parcel here in issue. The parking lot was completed during January 1999 and was immediately put to use by persons having business or going to religious services at the applicant's sanctuary building. (Tr. p. 35)

9. Since the parking lot was completed it has been used by members of the applicant and visitors who have business at the church across the street or who attend worship there. The applicant has not leased or otherwise used this parking lot for profit. There is a sign at the entrance to the parking which states “ Zion United Church of Christ parking.” The church and this parking lot are located in a residential neighborhood. (Tr. pp. 24 & 25, 35 & 36, Appl. Grp. Ex. 19-1)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Concerning exemption of religious organizations from property taxation, 35 **ILCS** 200/15-40 provides as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, . . . not leased or otherwise used with a view to profit, is exempt, . . . .

Concerning parking lots 35 **ILCS** 200/15-125 exempts certain property from taxation as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v.

Brenza, 8 Ill.2d 141 (1956); Milward v. Paschen, 16 Ill.2d 302 (1959); and Cook County Collector v. National College of Education, 41 Ill.App.3d 633 (1st Dist. 1976). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944) and People ex rel. Lloyd v. University of Illinois, 357 Ill. 369 (1934). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967); Girl Scouts of DuPage County Council, Inc. v. Department of Revenue, 189 Ill.App.3d 858 (2nd Dist. 1989) and Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986). It is therefore very clear that the burden of proof that the part of the parcel here in issue qualifies for exemption is on the applicant.

The Illinois Supreme Court in 1911 held that a religious purpose pursuant to the constitutional provision concerning exemption from taxation is a use of property by a religious society or organization as a place for worship, Sunday schools, and religious instruction. People ex rel. McCullough v. Deutsche Gemeinde, 249 Ill. 132 (1911). While the forgoing definition of a religious use has been broadened somewhat, it most certainly does not include the use of a house for the storage of tangible personal property of an estate until the estate can auction off that property. Consequently, the portion of this parcel and the house thereon was not used for religious purposes until on or about February 4, 1998.

Once the personal property of the decedent had been disposed of, the applicant began a search for a religious, charitable or civic organization to remove the house from the part of the parcel here in issue. At the same time the architect employed by the applicant was in the process of getting bids to demolish the house, if necessary, and to construct the parking lot. When no one had been found to remove the house by October 1998, the applicant proceeded to demolish the house and construct the parking lot.

Illinois Courts have held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation

for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1<sup>st</sup> Dist. 1977); and Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2<sup>nd</sup> Dist. 1987).

The parking lot is directly across the street from the church sanctuary building which is in a residential neighborhood. There is a sign at the entrance to the lot which identifies it as being for church parking. In addition, no part of the parking lot has been leased or otherwise used for profit.

Consequently, I conclude that the part of Williamson County Parcel Index No. 06-24-203-006 at issue qualified for exemption pursuant to 35 **ILCS** 200/15-125 for the period February 4, 1998, through December 31, 1998.

I therefore recommend that part of Williamson County Parcel Index No. 06-24-203-006 be exempt from real estate taxation for 91% of the 1998-assessment year.

Respectfully Submitted,

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George H. Nafziger  
Administrative Law Judge  
January 17, 2001